

ORIGINAL

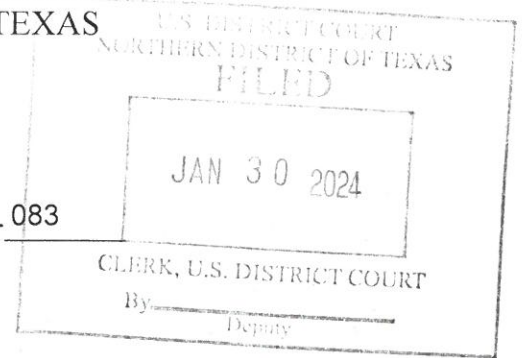
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

ITYAIR NAJERA (01)
a/k/a "Gordo"

No. 4:24-MJ-083



CRIMINAL COMPLAINT

I, Derek Peters, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

Alleged Offense: False Statement to Firearms Dealer

Between on or about June 4 and 5, 2022, in the Fort Worth Division of the Northern District of Texas, the defendant, **Itayair Najera**, also known as Gordo, in connection with the acquisition of a firearm from a licensed dealer within the meaning of Chapter 44, Title 18, United States Code, knowingly made a false and fictitious written statement, which such statement was intended and likely to deceive the licensed dealer as to a fact material to the lawfulness of the sale of the firearm to the defendant under chapter 44 of Title 18, United States Code, in violation of 18 U.S.C. §§ 922(a)(6) and 924(a)(2).

Probable Cause:

1. I, Derek Peters, affiant, under oath, duly, state that I am a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), assigned to the Fort Worth Field Office in the Dallas Field Division. The statements set forth in this affidavit are true and correct to the best of my knowledge and belief but are not inclusive of all the evidence or information in the case.

2. I have been a SA with ATF since February 2020, and I am familiar with, and have participated in, many methods of investigation, including, but not limited to, electronic surveillance, visual surveillance, general questioning of witnesses, use of search warrants, use of confidential informants, use of pen registers and trap-and-trace devices, and use of undercover agents. I have also been involved in investigations of international and domestic firearms trafficking that have resulted in the seizure of firearms, gun parts, and ammunition. I am also a graduate of the Criminal Investigator Training Program at the Federal Law Enforcement Training Center (FLETC) located in Glynco, Georgia, and Special Agent Basic Training at the ATF National Academy.

3. I know from my training and experience that persons engaged in illegal firearm trafficking often employ a technique to illegally acquire firearms called *straw purchasing*. *Straw purchasing* is the illegal purchasing of a firearm or firearms from a Federal Firearms Licensee (FFL) by one person for another person. An FFL is someone who has a license to import, manufacture, and/or deal in firearms. When a person purchases a firearm from an FFL, that person must fill out the ATF Form 4473, *Firearms Transaction Record*, which an FFL is required to maintain under 27 CFR § 923(g). If a person buys two or more handguns at one time or during five consecutive business days, the FFL is required to fill out and maintain ATF Form 3310.4, *Report of Multiple Sale . . . of Pistols and Revolvers*. An FFL can maintain these records digitally or in paper form.

4. Question 21.a. in section B of Form 4473 asks the buyer if that person is the actual transferee/buyer of the firearm or firearms listed on the Form, and it warns that if the person is not the actual transferee/buyer of the listed firearm or firearms, the FFL cannot

transfer the listed firearm or firearms to the person. Often, in the *Straw purchasing* of firearms, the person will mark “yes” for question 21.a., falsely indicating the person is the actual transferee/buyer of the listed firearm or firearms when in fact the person is buying the firearm or firearms for someone else. Often, this other person is prohibited from receiving and possessing a firearm under 18 U.S.C. § 922(g) or (n) and is attempting to avoid the required criminal background check that FFLs are required to conduct under 18 U.S.C. § 922(t) before selling, transferring, or delivering a firearm to any unlicensed person. Other times, this other person is engaged in firearms trafficking, either domestically or internationally, often for criminal gangs or organizations, and is attempting to avoid any trace record of acquiring these firearms by using a *straw buyer*. Persons engaged in illegal firearm trafficking or in the *straw purchasing* of firearms often seek out and repeatedly patronize FFLs that are careless, reckless, or even deliberately ignorant or complicit in the failure to adhere to the federal statutes and federal regulations regarding the sale, transfer, and disposition of firearms.

5. In June 2022, a criminal investigation was opened into Michael George Green, an FFL based out of Rice, Navarro County, Texas, FFL # 5-75-349-01-5E-11883, doing business as *Mike's Precision Products*, after it was discovered that *Mike's Precision Products*, between February and March 2022, had sold 34 firearms at a Fort Worth gun show to a single person worth over an estimated \$14,000, of which 22 were 9mm-caliber pistols, six were .380-caliber pistols, four were 5.7-caliber pistols, and two were .40-caliber pistols. It was also discovered that in early June 2022, *Mike's Precision Products* sold another person at a Fort Worth gun show 18 firearms worth an estimated \$7,100, of

which 12 were 9mm-caliber pistols, two were .40-caliber pistols, one was a .45-caliber pistol, one was a .38-caliber revolver, and two were .380-caliber pistols.

6. In late February 2022, before ATF began investigating *Mike's Precision Products*, ATF Crime Gun Intelligence Center (CGIC) IOI Kevin Murphy identified Maria Guadalupe Gallardo Tello (Gallardo) as the original purchaser of various firearms recovered in Los Angeles with short times-to-crime. IOI Murphy identified three firearms recovered by ATF SA Dylan Kirker in Los Angeles that had originally been purchased by Gallardo three days, four days, and 11 days prior at a gun show in Fort Worth, Texas. The firearm recovered with a three-day TTC was identified as a Taurus, model G2C, 9mm pistol, bearing serial number ACL532731, and was purchased by Gallardo on February 13, 2022. The firearm recovered with a four-day TTC was identified as a Ruger, model EC9S, 9mm pistol, bearing serial number 461-12133, and was purchased by Gallardo on February 13, 2022. And the firearm recovered with an 11-day TTC was identified as a Taurus, model G3C, 9mm pistol, bearing serial number ACK427101, and was purchased by Gallardo on February 13, 2022.

7. These firearms were documented together in a multiple sale report (MSR) that consisted of 13 firearms in total *Mike's Precision Products* sold to Gallardo on Sunday, February 13, 2022, at a Fort Worth gun show. A second MSR from *Mike's Precision Products* showed Gallardo had bought five firearms on Saturday, February 12, 2022, at the gun show, for a total of 18 firearms that weekend at a retail cost of about \$7,600 based on common market pricing. Of the 18 firearms Gallardo purchased, 14 were 9mm-

caliber pistols of varying manufacturers, two were .380-caliber pistols, one was a .40-caliber pistol, and one was a 5.7-caliber pistol.

8. On or about March 15, 2022, another MSR was generated showing that Gallardo purchased 16 firearms at a gun show in Fort Worth, again from *Mike's Precision Products* three days prior on March 12, 2022. The estimated cost for these 16 firearms is around \$7,000, based on common market pricings. Of the 16 firearms Gallardo purchased, eight were 9mm-caliber pistols of varying manufacturers, one was a .40-caliber pistol, three were 5.7-caliber pistols, and four were .380-caliber pistols. Thus, within a month's time span, Gallardo bought 34 total firearms from *Mike's Precision Products* worth over an estimated \$14,000, of which 22 were 9mm-calibler pistols, six were .380-caliber pistols, four were 5.7-caliber pistols, and two were .40-caliber pistols.

9. In a *Mirandized* interview of Gallardo, she admitted she had purchased the 34 firearms for a Marco Olivera, who the investigation learned was trafficking drugs from California to Texas and trafficking firearms from Texas to California. Gallardo said Olivera paid her \$300 for purchasing firearms on Olivera's behalf. Gallardo explained that her husband, Ramon Navarro, and Olivera and herself drove to the gun show in Fort Worth, where Olivera directed her to *Mike's Precision Products* to purchase firearms that Olivera was trafficking back to California. Gallardo said she completed the ATF Form 4473 and completed the background check to purchase the firearms. During the transaction, Gallardo said a female employee told her that she (Gallardo) could purchase as many firearms as she (Gallardo) wanted and give them as gifts to other individuals. At

the time, Gallardo was seven months pregnant, and she paid cash, which she said Olivera supplied, for all the firearms.

10. A few months after Gallardo had bought the 34 firearms from *Mike's Precision Products*, on or about June 10, 2022, Wichita Falls police arrested **Ityair Najera** for possession of drug paraphernalia following a traffic stop. When he was arrested, **Najera** possessed a Glock, model 23, .40 caliber pistol, bearing serial number BWEK517. In a *Mirandized* interview, **Najera** admitted he bought this firearm, along with 17 additional firearms, for Marco Olivera at a gun show in Fort Worth on June 4 and 5, 2022. A trace of the Glock recovered from **Najera** confirmed **Najera** bought it on June 4, 2022, from *Mike's Precision Products* at the *Lone Star Gun Show* in Fort Worth. Records also showed that **Najera** bought twelve (12) 9mm-caliber pistols, two .40-caliber pistols, one .45-caliber pistol, one .38-caliber revolver, and two .380-caliber pistols, worth around \$7,100, during those two days from *Mike's Precision Products* at the *Lone Star Gun Show* in Fort Worth. The below table are the firearms **Najera** bought on June 4 and 5, 2022:

<i>Date of Purchase</i>	<i>Firearm Manufacturer</i>	<i>Firearm Model</i>	<i>Firearm Caliber</i>	<i>Type of Firearm</i>	<i>Firearm Serial Number</i>
6/4/2022	Taurus International	GX4	9mm	Pistol	1GA37253
6/4/2022	Glock	43X	9mm	Pistol	AGTH896
6/4/2022	HS Produkt (IM Metal)	XDS	9mm	Pistol	BA566092
6/4/2022	HS Produkt (IM Metal)	XDS	9mm	Pistol	BA641248
6/4/2022	HS Produkt (IM Metal)	XDS	9mm	Pistol	BB201597
6/4/2022	Taurus	G3C	9mm	Pistol	ACM683583
6/4/2022	Taurus	G3C	9mm	Pistol	ACJ246024
6/4/2022	Taurus	856	.38	Revolver	ADD200876

<i>Date of Purchase</i>	<i>Firearm Manufacturer</i>	<i>Firearm Model</i>	<i>Firearm Caliber</i>	<i>Type of Firearm</i>	<i>Firearm Serial Number</i>
6/4/2022	Smith & Wesson	SD9VE	9mm	Pistol	FDX1607
6/4/2022	Smith & Wesson	M&P 9	9mm	Pistol	NLD4486
6/4/2022	Ruger	LCP	.380	Pistol	381361202
6/4/2022	Glock	23	.40	Pistol	BWEK517
6/4/2022	Glock	42	.380	Pistol	AGFF820
6/4/2022	HS Produkt (IM Metal)	XDS	.45	Pistol	BB105084
6/4/2022	Smith & Wesson	M&P 9 Shield EZ	9mm	Pistol	RFA2007
6/5/2022	Taurus	G3C	9mm	Pistol	ACL576734
6/5/2022	HS Produkt (IM Metal)	XDS	9mm	Pistol	BA566100
6/5/2022	Glock	23	.40	Pistol	BWEK518

11. **Najera** said when they arrived at the Fort Worth gun show, Olivera directed him to *Mike's Precision Products* to buy the firearms with cash Olivera provided. **Najera** said Olivera selected the firearms and that he (**Najera**) filled out the Form 4473 and underwent the background check. **Najera** explained he only wrote his name, address, and birth date on the Form, and that the female employee answered some questions on **Najera's** behalf. **Najera** said the female employee assisted in answering the Yes/No questions in blocks 21.a. through 21.1.2. in which buyers are asked a series of questions, including whether the buyer is the actual transferee of the firearm, to determine whether the buyer can lawfully buy and receive a firearm, because **Najera** did not understand the questions. During the transaction, **Najera** said the female employee advised him to buy only certain firearms "or the feds are going to catch up." After completing the background check, **Najera** said Olivera paid the female employee for the firearms, and he said Olivera paid him (**Najera**) \$300 for completing the paperwork. **Najera** said

Olivera helped carry the 15 firearms they purchased away from *Mike's Precision Products*.

12. **Najera** said after buying the 15 firearms from *Mike's Precision Products* at the Fort Worth gun show on June 4, he returned to the gun show on June 5, and bought another three firearms from *Mike's Precision Products*. **Najera** explained that this time, he completed the entire Form 4473, including answering the questions. **Najera** said he answered "No" to Question 21.a., asking if he was the actual transferee/buyer of the firearm(s) listed on the Form. In answering question 21.a., Form 4473 provides the following warning:

Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearms to you.

Najera explained he marked, "No," because he didn't "want the firearms under his name." After submitting the Form 4473, **Najera** said a middle-aged white male employee approached him and said the transaction could not be completed if **Najera** was not the actual purchaser. **Najera** said he was provided a new Form 4473 that he proceeded to complete, this time answering, "Yes," to Question 21.a. **Najera** then took custody of the three firearms he purchased and left the gun show. **Najera** said these firearms were also for Olivera but said Olivera did not accompany him on this purchase.

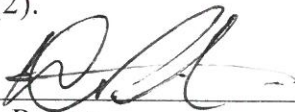
13. I reviewed the Form 4473s for **Najera's** firearms purchases on June 4 and 5, 2022, from *Mike's Precision Products* at the Fort Worth gun show. For question 21.a. in section B of the ATF Form 4473, the box for "yes," is marked to the question, "Are you

the actual transferee/buyer of the firearm(s) listed on this form . . .?” Question 21.a. also contained the following warning in bold print: “**Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearm(s) to you.**” Right above box 22, the spot for **Najera** to sign, the ATF Form 4473 contained the following warning, in relevant part, in bold print:

I certify that my answers in Section B are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. I understand that answering “yes” to question 21.a. if I am not the actual transferee/buyer is a crime punishable as a felony under Federal law, and may also violate State and/or local law I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law, and may also violate State and/or local law.

Najera’s signature is in box 22.

14. Thus, based upon the above facts and circumstances, there is probable cause to believe that **Najera** knowingly made a materially false or fictitious oral or written statement in connection with the acquisition of a firearm from a licensed dealer, in violation of 18 U.S.C. §§ 922(a)(6) and 924(a)(2).



Derek Peters
Special Agent, ATF

SWORN AND SUBSCRIBED before me, on this 30th of January 2024, at 1:23
am/pm, in Fort Worth, Texas.



JEFFREY L. CURETON
UNITED STATES MAGISTRATE JUDGE